

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CAROL LEWIS,
Plaintiff,

v.

CIVIL ACTION NO.
15-13530-NMG

SYLVIA BURWELL,
Secretary of the United States
Department of Health and Human
Services,
Defendant.

REPORT AND RECOMMENDATION RE:
DEFENDANT'S MOTION TO DISMISS FOR LACK OF SUBJECT MATTER
JURISDICTION AND FOR FAILURE TO STATE A CLAIM
(DOCKET ENTRY # 12)

September 4, 2016

BOWLER, U.S.M.J.

Pending before this court is a motion to dismiss filed by defendant Sylvia Burwell, Secretary of the United States Department of Health and Human Services ("the Secretary"). (Docket Entry # 12). The Secretary moves to dismiss the complaint under Fed.R.Civ.P. 12(b)(1) ("Rule 12(b)(1)") for lack of subject matter jurisdiction and to dismiss Count VIII of the complaint under Fed.R.Civ.P. 12(b)(6) ("Rule 12(b)(6)") for failure to state a claim. (Docket Entry # 12). Plaintiff Carol Lewis ("plaintiff") opposes the motion. (Docket Entry ## 14, 30).

PROCEDURAL BACKGROUND

*After consideration of plaintiff's objections thereto (Docket No. 38),
Report and Recommendation is accepted and adopted.
JFM/Eaton, USDJ 9/23/16*